

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MAILED

JUN 27 2002

Ex parte AKIRA YOSHIDA

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PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application No. 09/040,539

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on June 10, 2002. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On August 23, 2000, appellant filed an amendment. <sup>#16</sup> On October 17, 2000, the examiner has indicated in an advisory action (Paper No. 17) that the amendment filed August 23, 2000,

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would be entered. A review of the file reveals that the amendment was not physically entered. Appropriate correction is required.

Additionally, on May 31, 2002, appellant filed a reply brief (Paper No. 29) in response to the examiner's answer entered March 12, 2002 (Paper No. 28). However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section § 1208.03 of the Manual of Patent Examining Procedure (8<sup>th</sup> ed., Aug. 2001) states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

Also, it is noted that the appeal brief filed January 14, 2002 (Paper No. 26) is defective, for it no longer contains an accurate appendix of claims 1 and 2 pursuant to 37 CFR § 1.192(c)(9):

Claim 1, line 8 and Claim 2, line 10, delete the phrase "said display indicating frame and."

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) physical entry of the amendment filed August 23, 2000; 2) proper response to reply brief; 3) notification to

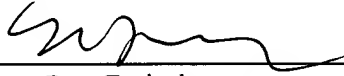
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appellant that the brief filed January 14, 2002, is defective;  
4) notification to appellant to correct the defective brief; and  
5) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: \_\_\_\_\_

  
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